

John E. Flaherty
Jonathan M.H. Short
McCARTER & ENGLISH LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

*Attorneys for Plaintiffs AstraZeneca AB,
Aktiebolaget Hassle, AstraZeneca LP,
and Zeneca Inc.*

Of Counsel:
Einar Stole
Ed Rippey
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
(202) 662-6000

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ASTRAZENECA AB, AKTIEBOLAGET
HASSLE, ASTRAZENECA LP, and
ZENECA INC.,

Plaintiffs,

v.

ACTAVIS LABORATORIES FL, INC. and
ACTAVIS PHARMA, INC.,

Defendants.

Civil Action No. 3:14-cv-07870 (MLC) (TJB)

**PLAINTIFFS ASTRAZENECA AB,
AKTIEBOLAGET HASSLE,
ASTRAZENECA LP, AND
ZENECA INC.'S ANSWER TO
ACTAVIS LABORATORIES FL, INC.'S
COUNTERCLAIMS**

Plaintiffs/Counterclaim-Defendants AstraZeneca AB, Aktiebolaget Hassle, AstraZeneca LP, and Zeneca Inc. (collectively, “Plaintiffs”), by their attorneys, files this Answer to the Counterclaims of Defendant/Counterclaim-Plaintiff Actavis Laboratories FL, Inc. (“Actavis Florida” or “Defendant”) as follows:

ANSWER TO DEFENDANTS’ COUNTERCLAIMS

Parties

1. On information and belief, Plaintiffs admit the allegations of paragraph 1.
2. Plaintiffs admit the allegations of paragraph 2.
3. Plaintiffs admit the allegations of paragraph 3.
4. Plaintiffs admit the allegations of paragraph 4.
5. Plaintiffs admit the allegations of paragraph 5.

Jurisdiction and Venue

6. The allegations of paragraph 6 contain legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit that Actavis Florida purports to state a cause of action under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, but deny that there is any factual or legal basis for the declaratory judgment action or that Actavis Florida is entitled to the relief it seeks. Further, to the extent a response is required, Plaintiffs do not contest that this Court has subject matter jurisdiction, for this action only, over the asserted claims of U.S. Patent Nos. 5,714,504 (the “‘504 patent”); 6,369,085 (the “‘085 patent”); 7,411,070 (the “‘070 patent”); and 8,466,175 (the “‘175 patent”) (collectively, the “patents-in-suit”). Plaintiffs deny the remaining allegations of paragraph 6.

7. The allegations of paragraph 7 contain legal conclusions to which no response is required. To the extent a response is required, Plaintiffs do not contest that this Court has

personal jurisdiction over Plaintiffs, for this action only. Plaintiffs deny the remaining allegations of paragraph 7.

8. The allegations of paragraph 8 contain legal conclusions to which no response is required. To the extent a response is required, Plaintiffs do not contest that venue is proper in this action. Plaintiffs deny the remaining allegations of paragraph 8.

Background

9. Plaintiffs admit the allegations of paragraph 9.

10. Plaintiffs admit the allegations of paragraph 10.

11. Plaintiffs admit the allegations of paragraph 11.

12. Plaintiffs admit that Actavis Florida filed ANDA No. 207079 and that the ANDA included a Paragraph IV certification with respect to the '504, '192, '085, '872, and '070 patents. Plaintiffs deny the remaining allegations of paragraph 12.

13. Plaintiffs admit that, in a letter dated November 4, 2014, Actavis Florida notified Plaintiffs of the filing of ANDA No. 207079 and that the ANDA included a Paragraph IV certification with respect to the '504, '085, '070, and '175 patents. Plaintiffs deny the remaining allegations of paragraph 13.

14. Plaintiffs admit that Plaintiffs filed a Complaint against Actavis Florida on December 17, 2014 alleging infringement of one or more claims of the patents-in-suit.

15. The allegations of paragraph 15 contain legal conclusions to which no response is required. To the extent a response is required, Plaintiffs do not contest that there is a case or controversy between Plaintiffs and Actavis Florida as to Actavis Florida's infringement of the patents-in-suit and deny the remaining allegations of paragraph 15.

ANSWER TO COUNT I

(Declaratory Judgment of Invalidity of the '504 Patent)

16. Plaintiffs repeat and reassert all responses to paragraphs 1-15 as if they were incorporated herein.

17. Plaintiffs deny the allegations of paragraph 17.

ANSWER TO COUNT II

(Declaratory Judgment of Non-Infringement of the '504 Patent)

18. Plaintiffs repeat and reassert all responses to paragraphs 1-17 as if they were incorporated herein.

19. Plaintiffs deny the allegations of paragraph 19.

ANSWER TO COUNT III

(Declaratory Judgment of Invalidity of the '085 Patent)

20. Plaintiffs repeat and reassert all responses to paragraphs 1-19 as if they were incorporated herein.

21. Plaintiffs deny the allegations of paragraph 21.

ANSWER TO COUNT IV

(Declaratory Judgment of Non-Infringement of the '085 Patent)

22. Plaintiffs repeat and reassert all responses to paragraphs 1-21 as if they were incorporated herein.

23. Plaintiffs deny the allegations of paragraph 23.

ANSWER TO COUNT V

(Declaratory Judgment of Invalidity of the '070 Patent)

24. Plaintiffs repeat and reassert all responses to paragraphs 1-23 as if they were incorporated herein.

25. Plaintiffs deny the allegations of paragraph 24.

ANSWER TO COUNT VI

(Declaratory Judgment of Non-Infringement of the '070 Patent)

26. Plaintiffs repeat and reassert all responses to paragraphs 1-25 as if they were incorporated herein.

27. Plaintiffs deny the allegations of paragraph 27.

ANSWER TO COUNT VII

(Declaratory Judgment of Invalidity of the '175 Patent)

28. Plaintiffs repeat and reassert all responses to paragraphs 1-27 as if they were incorporated herein.

29. Plaintiffs deny the allegations of paragraph 29.

ANSWER TO COUNT VIII

(Declaratory Judgment of Non-Infringement of the '175 Patent)

30. Plaintiffs repeat and reassert all responses to paragraphs 1-29 as if they were incorporated herein.

31. Plaintiffs deny the allegations of paragraph 31.

RESPONSE TO ACTAVIS FLORIDA'S PRAYER FOR RELIEF

Plaintiffs deny that Actavis Florida is entitled to any relief as sought in its Counterclaims.

WHEREFORE, Plaintiffs therefore respectfully request the following relief:

- A. Dismissing Actavis Florida's Counterclaims with prejudice and denying all relief sought by Actavis Florida;
- B. Awarding Plaintiffs the relief requested in their Complaint; and
- C. Awarding Plaintiffs any further and other relief as this Court deems just and proper.

Dated: June 26, 2015

Respectfully submitted,

/s/ John E. Flaherty
John E. Flaherty
Jonathan M.H. Short
McCARTER & ENGLISH LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

*Attorneys for Plaintiffs AstraZeneca AB,
Aktiebolaget Hassle, AstraZeneca LP,
and Zeneca Inc.*

Of Counsel:
Henry J. Renk
Bruce C. Haas
Joshua I. Rothman
FITZPATRICK, CELLA, HARPER &
SCINTO
1290 Avenue of the Americas
New York, New York 10104-3800
(212) 218-2100

Einar Stole
Ed Rippey
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
(202) 662-6000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of PLAINTIFFS ASTRAZENECA AB, AKTIEBOLAGET HASSLE, ASTRAZENECA LP, AND ZENECA INC.'S ANSWER TO ACTAVIS LABORATORIES FL, INC.'S COUNTERCLAIMS were caused to be served on June 26, 2015 via email and/or the ECF system upon all counsel of record.

By: s/John E. Flaherty
John E. Flaherty